

REMARKS

Claims 1, 14, 21-24 and 26-28 are pending. Claims 2-13 and 15-20 have been withdrawn by the Examiner from further consideration in this application as being drawn to non-elected subject matter, and are hereby cancelled without prejudice to or disclaimer of their subject matter. Claim 25 is cancelled without prejudice to or disclaimer of its subject matter. Claims 1, 14, 21 and 22 are amended.

New claims 26-28 have been added. Support for claims 26 can be found at least in the second and third paragraphs on page 36 of the specification. Support for claim 27 can be found at least in Figure 1, Table 3 and the third paragraph on page 1 of the specification. Support for claim 28 can be found at least on the second and third paragraphs on page 36 and the third paragraph on page 1 of the specification. No new matter has been added.

Applicants gratefully acknowledge the Examiner's telephone call on or about March 31, 2006 to resolve the issues presented in the March 31, 2006 office action.

Claim Objections for Informalities

Claims 1, 14, 21-25 are objected to for assertedly comprising non-elected subject matter. Applicants respectfully traverse this rejection to the extent the herein claimed invention obviates this objection. Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

Rejection Under 35 U.S.C. §112, second paragraph (Indefiniteness)

Claims 1, 14 and 21-24 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention in view of claim 1 which recites, "wherein the polypeptide encoded by the nucleotide sequence of the variant has insecticidal activity...." The polypeptide encoded by the nucleotide sequence of the variant has γ -type pyridoxal phosphate (PLP) enzyme activity, required to synthesize a loline alkaloid which in turn has insecticidal activity. Claim 1 has been amended to recite γ -type pyridoxal phosphate (PLP) enzyme activity.

Rejection Under 35 U.S.C. §112, first paragraph (Enablement)

Claim 25 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. Without admitting and/or agreeing with this rejection, claim 25 has been deleted thereby obviating any rejection. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

CONCLUSION

Entry of the Amendment and Reply and favorable consideration are respectfully believed to be in order and respectfully requested. However, if any issues remain outstanding, the Examiner is respectfully requested to contact the undersigned so the prosecution may be expedited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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